

**EAST HAMPTON HIGH SCHOOL
BUILDING COMMITTEE RESOLUTION**

Whereas, the New England Association of Schools and Colleges ("NEASC"), which provides accreditation services for, among other institutions, public schools in Connecticut, issued its report (the NEASC Report") dated April 27 – May 2, 2007 pertaining to the facilities of the East Hampton High School; and

Whereas, in the NEASC Report, it has determined that renovations to the East Hampton High School are or will be required to maintain its accreditation; and

Whereas, the NEASC Report was accepted by the East Hampton Board of Education on October 22, 2007; and

Whereas, the Board of Education, at its January 9, 2012 meeting, passed a motion to request that the Town Council create a school building committee for the purpose of planning and overseeing the necessary renovations to the East Hampton High School; and

Whereas, there is a recognized need by the Town to comply with State mandates, State Statutes and the NEASC Report in order for the East Hampton School District to maintain its accreditation; and

Whereas, it is necessary that Town's legislative body create a school building committee in order for the Town of East Hampton to receive funding from the State for any school renovations; and

Whereas, it is integral to our community that our students receive the proper and necessary education required for the 21st century; at the same time it is also essential that such renovations be planned and completed in the most cost efficient and transparent manner for the benefit of our taxpayers; it is therefore,

Resolved by the East Hampton Town Council, effective as of the date hereof, that the East Hampton High School Committee is established to plan and provide the necessary oversight for or with respect to the facility renovations at the East Hampton High School in order to fulfill the mandates of the NEASC Report to maintain the High School accreditation; and is further resolved that the East Hampton High School Committee shall have the following powers and duties and be constituted as follows:

Creation, Compensation, Composition, Term, Vacancies

- (a) *Membership.* There shall be one (1) school building committee with a membership composed of seven (7) members and 2 alternates. All members shall serve without compensation and shall be appointed by the Town Council. Alternate members, when seated shall have all the powers and duties of a member of the committee. When alternates are not seated, they are encouraged to be active participants in all member discussions.
- (b) *Composition.* The members shall be comprised of residents or tax taxpayers with a diversity of professional expertise, specialization and life experience. Membership may also include representation from the field of education and/or resident parents with school age children. Such diversity may be represented with expertise in the

following professional backgrounds: architecture, landscape and/or building planning, finance and banking, network/IT, construction, purchasing/procurement, engineering, education, public works.

- (c) *Term.* The term of office shall be for the length of the proposed project.

The duly authorized school building committee shall continue as a complete committee during the entire course of the project regardless of changes in the composition of the Town Council, the Board of Education and the Board of Finance.

- (d) *Removal.* A member of the committee may be removed for cause by a majority of Town Council or by a two-thirds (2/3) vote of the entire membership of the Town Council.

- (e) *Vacancies.* The school building committee shall fill a vacancy from the alternates when a member of the committee resigns and the Town Council shall replace the alternate by appointment.

- (f) *Resignations.* Any member may resign from the committee by notifying the Town Manager with a 30 day written notice.

- (g) *Ex officio members.* The Superintendent of Schools, the Town Manager and the Director of Facilities or their designee shall be ex officio members of the school building committee without vote.

- (h) *Town Staff.* The Board of Education shall provide appropriate support staff for the building committee.

- (i) *Parents and/or Residents.* The high school principal shall be responsible for annually appointing two (2) parents who are residents and registered voters of the town to represent student interests who may act as reporting liaisons to the PTO or other such organizations or committees.

- (j) All committee members shall be governed by the Town of East Hampton Code of Conduct and Code of Ethics.

Powers and Duties

The Building Committee shall have the following duties and powers:

- 1) To determine the scope of work for the project and select an architect through a Request for Proposal process as prescribed in Chapter 117 of the East Hampton Purchasing Ordinance.
- 2) To request the Town Council and Board of Finance to appropriate necessary funds for preliminary planning and site studies.
- 3) Upon appropriation of such funds, to hire an architect to *draft plans* for construction of new science labs in order to meet programmatic requirements and other such school building projects to meet building code/ADA requirements and to upgrade technology and improve facility infrastructure.

- 4) The building committee shall retain a construction and/or project manager to fulfill its duties and responsibilities.
- 5) The committee and architect shall review any and all existing conceptual plans that have been developed for the High School renovation project, which includes, among other things, demolishing the two school wings (class rooms 40-46 and 51-54 et al.). The committee shall consider and determine the feasibility of maintaining these two sections for future town use by the creation of (i.e.) new firewalls and other means to divide and make these two wings separate buildings apart from the main high school structure.
- 6) To approve *preliminary plans and specifications* for the project; obtain approval of preliminary plans and specifications by the Board of Education; initiate filing applications with the state department of education for review of preliminary plans and specifications; and request the Town Council and Board of Finance to appropriate necessary funds for the total project costs.
- 7) To analyze and approve final plans and specifications of such project; obtain approval of such final plans and specifications by the Board of Education; initiate filing application with the State Department of Education for review of *final plans and specifications*; and through the Town purchasing agent advertise for and receive bids for the construction of the project or any portion thereof.
- 8) Upon recommendation of the Town purchasing agent to vote award of construction contract bid to the most responsible bidder and, upon a majority vote of the Town Council to authorize the Town Manager to sign on behalf of the Town to enter into contract for construction of such project.
- 9) To be responsible for construction of such project through their appropriate agents and town's inspectors.
- 10) To examine and approve all payments in connection with the construction of such project with the advice of its agents, the project architect, and the town inspector.
- 11) To analyze and approve any change orders in the approved plans for such project within the limits of the total project appropriations.
- 12) To have province over and final approval of all expenditures of the project, including furnishings, equipment or any other appurtenances to the buildings or grounds.
- 13) To select a name for the school building project thus constructed.
- 14) To approve and accept the completed project subject to the advice of its agents, the project architect and the town's inspectors.
- 15) To turn the building and grounds over to the Board of Education as soon as possible after final completion and acceptance.
- 16) To obtain the necessary clearance and approval of any local or state board or agency as may be required for any of the duties and powers enumerated in this resolution.

- 17) The school building committee created by this resolution shall cease and its membership be terminated without further action of the Town Council once the assigned project has been turned over to the Board of Education; provided, having that any and all insurance coverage applicable to the building committee and its members shall continue in accordance with the Town of East Hampton standard practices and policies.

Reports on work progress required.

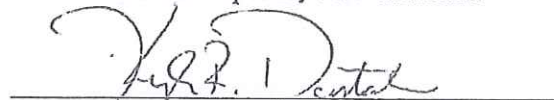
The school building committee shall submit, on a quarterly basis, budget and expenditure reports prepared in accordance with generally accepted accounting principals to the Town Council, Board of Education and the Board of Finance. Prior to their submission, such reports shall be reviewed by the Town's Finance Director. Annual budget and expenditure reports prepared in accordance with generally accepted accounting principals shall be audited by the Town's outside auditors and submitted to the Town Council, Board of Education and the Board of Finance. In conjunction with such annual reports, the Board of Education, along with the Finance Director, shall provide and/or update any revisions to any projected expenditures for the project. The Finance Director shall further certify that the building committee has established and explained generally accepted internal control measures. The school building committee shall also periodically report on the progress of its work to the Town Council and Board of Education.


Adopted this 14th day of February, 2012.

Town Council


Susan B. Weintraub, Chairperson

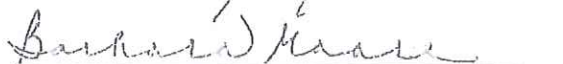
Glenn S. Suprono, Vice Chairman


Kyle R. Dostaler


Derek M. Johnson

Ted Hintz, Jr.


George Pfaffenbach


Barbara W. Moore

MEMORANDUM FROM THE LAW OFFICES OF
HALLORAN & SAGE LLP
One Goodwin Square, 225 Asylum Street
Hartford, Connecticut 06103

TO : Michael Maniscalco, Town Manager
FROM : Duncan J. Forsyth
Michael C. Collins
Richard P. Roberts
DATE : April 8, 2013
RE : Roles and Responsibilities in Conjunction with High School Renovation Project
Our File No. 07964.0038

You have asked us to review the relevant ordinances, resolutions, charter provisions and statutes and advise you with respect to the roles and responsibilities of various town bodies in conjunction with the High School renovation project. In particular, you have asked for our analysis of the roles of the building committee, the Board of Education, the Board of Finance and the Town Council.

The building committee's powers and duties are set forth in the resolution by which that committee was created. The committee is charged with the approval of the preliminary plans and specifications and the process of filing those plans with the state Department of Education and the Town's Board of Education. With respect to the financing for the renovations, its specific charge (set forth in (6) of the "Powers and Duties" section) is to "request the Town Council and Board of Finance to appropriate necessary funds for the total project costs".

The Board of Education's role in the process is also defined by the resolution creating the building committee. In short, that entity's jurisdiction is to review and approve the preliminary and final plans and specifications for the project, and it has no direct role in the appropriation of funds to complete the project.

The Board of Finance's role in the process is defined by state statute, Section 5.2 of the Town Charter, and Section 45-3 of the Town Code. Beginning with the ordinances, the provisions of Section 45-3 appear to be applicable to this situation:

"If, however, the additional appropriation is funded entirely from a grant, donation, gift or other source of revenue received in the current fiscal year, other than local taxes, said appropriation in its entirety, regardless of amount, shall be made as recommended by the Board of Finance and approved by the Town Council."

In turn, Section 5.2 of the Town Charter provides, in relevant part, that "The Board of Finance shall review and make recommendations regarding all requests for additional appropriations to be submitted to the council". Note also that Section 4.1 of the Town Charter provides that the town meeting must approve the issuance of bonds and notes and the making of additional appropriations in excess of the amount specified by ordinance, which amount is currently set at \$25,000. The statutes, in particular Section 7-344 of the Connecticut General Statutes, that are applicable to municipal finance and boards of finance are consistent with the Charter and Code,

and provide that the Board of Finance must recommend the appropriation or issuance of debt before it can be sent to a town meeting.

The role of the Board of Finance in matters impacting the Board of Education was discussed in the Supreme Court case of Board of Education of the Town and Borough of Naugatuck v. Town and Borough of Naugatuck, 268 Conn 295 (2004). While the case specifically addressed issues related to the operating budget, the discussion regarding the role of the Board of Finance in the case is broader and is equally relevant to the high school renovation project.

“The statutory scheme for appropriations contemplated a give and take between the board of education and the board of finance, guided by their respective interests and expertise...and...the statutes governing the appropriations process were evidently designed to produce a nice balancing of powers between the two boards....” “[A] function of a board of finance is ... to eliminate wasteful or extravagant expenditures by considering the financial aspects of the municipal government as a whole rather than from the limited viewpoint of any particular department, whether it is the department in charge of education or of fire prevention or of police protection.... The board of finance’s control, however, must be exercised reasonably by taking into consideration the duty of the board of education to maintain in town a program of educational opportunity which meets the requirements of state law; the power of the board of education to exercise a sound and reasonable discretion in carrying out its duties; and the town’s financial needs and resources.” (emphasis in original) Id. at 312-313.

Applying the holdings of the court in the Naugatuck case to the issue at hand, the Building Committee has been established with certain enumerated duties, starting with the duty to determine the scope of work for the project regarding the renovations at the high school. It would be the duty of the Board of Finance, pursuant to the Town Charter and Code, to review and make recommendations regarding all requests for appropriations related to that project. The Board of Finance’s review and recommendations must be exercised in accordance with the considerations discussed by the court and referenced above.

Finally, the Town Council’s primary role in the process would be to observe the requirements of the Town Charter and state statutes pertaining to appropriations and issuance of bonds and to send the request for funding to a town meeting for discussion and vote.

Please feel free to contact us if you have any additional questions or concerns in this regard.

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